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EXAMINER

RENWICK, REGINALD A

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

07/10/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/539,848	Applicant(s) MILES ET AL.	
	Examiner REGINALD A. RENWICK	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/31/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The Information Disclosure Statement filed on 03/31/3008 has been fully considered for examination.

Claim Rejections - 35 USC § 103

2. Claims 1-3, 7-13, 16, 17,19, 20-24, 26-32, 35, 36, 37, 47, 48, 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs-Baird et al. (U.S. Patent No. 7,210,997) in view of Barrie (U.S. Patent No. 5,833,537).

Re claim 1, 18: Hughs-Baird discloses a gaming device comprising (Abstract): a primary game including a plurality of reels and a plurality of symbols on the reels having a plurality of symbols at least one of said symbols is a modifier activator symbol (column 3, lines, 61-67); a plurality of different modifiers (column 2, lines 34-36; column 3, lines 58-60), each one of the modifiers corresponding to a plurality of activations of the reels; At least one display device (column 6, lines 57-65); At least one processor (column 2, lines 44-47);At least one memory device which stores a plurality of instructions (column 7, lines 14-33), which when executed by the at least one processor, cause the at least one processor to operate with plurality at least one display device (column 2, lines 44-47);a.) activate the reels and display at least one of said symbols (column 7, lines 1-8; column 8, lines 14-20); b.) provide any award based on the at least one displayed

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symbol (column 8, lines 21-24); c.) determine whether at least one of the modifier activator symbols is displayed on the reels (column 11, lines 10-19); d.) select the modifier corresponding to the determined modifier activator symbol (column 11, lines 10-19); g.) provide any award based, at least in part on the selected modifier (Abstract; column 3, lines 39-44). Hughs-Baird fails to disclose the steps of e.) reactivate the reels one or more times and f.) apply the selected modifier to modify at least one function of the primary game for each one of the reactivations of the reels. However, Barrie discloses a bonus persistent feature wherein the bonus persistent feature is a multiplier indicia that appears when there is a triggering symbol (column 5, lines 66-67; column 6, lines 1-8). Furthermore said bonus persistent features are available within the game at their persistent location through two or more sequential rounds of a game (Abstract). It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 2: Hughes-Baird discloses that a plurality of said symbols are modifier activator symbols (column 2, lines 34-44).

Re claim 3: Hughes-Bair discloses that the instructions including a plurality of instructions executable (column 7, lines 14-33) to cause the at least one processor is operable to select one of the plurality of modifiers if a plurality of modifier activator

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symbols are displayed (column 3, lines, 61-67; column 4, lines 1-7; column 11, lines 10-19, 30-35; claim 23).

Re claim 4: Hughes-Baird discloses the instructions including a plurality of instructions executable (column 7, lines 14-33) to cause the at least one processor to select more than one modifier (column 9, lines 9-65).

Re claim 7: Hughs-Baird discloses the instructions including a plurality of instructions executable (column 7, lines 14-33) to cause the at least one processor is operable to select one of the plurality of modifiers if said modifier activator symbol is displayed, but does not disclose that the event occurs when no modifiers are selected. However, because Hughs-Baird discloses the structural limitations of the instant application, any procedural modification to the prior art is a design choice by the inventor, and it would have been obvious to modify the invention of Hughs-Baird for adding an added game element to the device that would increase game excitement.

Re claim 8: Hughses-Baird discloses that the gaming device of claim 1, which includes a modifier generator displayed to the player that includes said plurality of modifiers (column 2, lines 26-29).

Re claim 9: Hughes-Baird discloses the instructions including a plurality of instructions executable (column 7, lines 14-33) to cause the at least one processor is operable with

the modifier generator to select one of the plurality of modifiers (column 2, lines 55-57; column 3, lines, 61-67; column 4, lines 1-7);

Re claim 10: Hughs-Baird discloses that the processor is operable to select one of the plurality of modifiers if said modifier activator symbol is displayed, but does not disclose that the event occurs when no modifiers are selected. However, because Hughs-Baird discloses the structural limitations of the instant application, any procedural modification to the prior art is a design choice by the inventor, and it would have been obvious to modify the invention of Hughs-Baird for adding an added game element to the device that would increase game excitement.

Re claim 11: Hughs-Baird discloses the gaming device of claim 9, wherein said selected modifier is activated if said modifier activator symbol is displayed (column 11, lines 10-17; column 12, lines 55-67; column 13, 1-5).

Re claim 12: Hughs-Baird discloses the gaming device of claim 8, wherein said modifier generator selects at least one modifier for each activation of the reels (column 11, lines 10-19).

Re claim 13: Hughs-Baird discloses the instructions including a plurality of instructions executable to cause the at least one processor to operable to (column 7, lines 14-33) wherein said selected modifier is activated if said modifier activator symbol is displayed

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(column 11, lines 1-19). However, Hughs-Baird fails to disclose that the at least one modifier generator spins when at least one modifier is not displayed. The examiner believes that because Hughs-Baird discloses the necessary parts to complete said function, as well as disclosing a game machine function that is the complete opposite of claimed function of the Applicant's claim 32, it would have been obvious to one skilled in the art to try to spin the modifier generator if the modifier is not displayed, so as to affect the game outcome by italicizing the modifier generator.

Re claim 16: Hughs-Baird fails to disclose that each modifier is associated with the same plurality of subsequent activations of the reels. However, Barrie discloses a bonus persistent feature wherein the bonus persistent feature is a multiplier indicia that appears when there is a triggering symbol (column 5, lines 66-67; column 6, lines 1-8). Furthermore said bonus persistent features are available within the game at their persistent location through two or more sequential rounds of a game (Abstract). It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 17: Hughs-Baird fails to disclose that a plurality of said modifiers are each associated with a different pluralities of subsequent activations of the reels (Fig. 1B). However, Randall discloses a selected modifier that is associated with the amount of subsequent spins of the gaming machine, and also the payout of the gaming machine

(Fig. 7; column 14, lines 49-61). Because it is previously disclosed in Randall, one skilled in the art could simply program the modifiers of Hughes-Baird with the ability to change the amount of subsequent plays as well as affect the payout at the same time. It would have been obvious to one skilled in the art to modify the game of Hughes-Baird and Barrie in combination, with the modifier and subsequent games of Randall, for the purpose of providing increasing opportunities to obtain awards and increase the size of the awards which are desirable by players.

Re claim 19: The examiner believes that because Hughs-Baird discloses the structural limitations of claimed limitation, it would have been obvious to one skilled in the art to modify the procedural steps due to design choice.

Re claim 20: Hughs-Baird discloses a gaming device comprising:
a primary game including a plurality of reels and a plurality of symbols on the reels having a plurality of symbols at least one of said symbols is a modifier activator symbol (column 3, lines, 61-67); a plurality of different modifiers (column 2, lines 34-36; column 3, lines 58-60), each one of the modifiers corresponding to a plurality of activations of the reels; At least one display device (column 6, lines 57-65); At least one processor (column 2, lines 44-47); At least one memory device which stores a plurality of instructions (column 7, lines 14-33), which when executed by the at least one processor, cause the at least one processor to operate with plurality at least one display device (column 2, lines 44-47) designed to: a.) enable the player to play the primary

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wagering game (column 6, lines 42-49); b.) display at least one of the symbols (column 6, lines 25-30; column 8, lines 33-41); c.) determine whether the at least one modifier activator is displayed (column 6, lines 25-30; column 8, lines 33-41); d.) select the modifier corresponding to the displayed modifier activator (column 11, lines 10-19); h.) provide any award based, at least in part, on the selected modifier (column 3, lines 39-44);

Hughs-Baird fails to disclose operating at least one subsequent play of the primary wagering game, and applying the selected modifier the primary wagering game for the at least one subsequent play of the primary wagering game. However, Barrie discloses a bonus persistent feature wherein the bonus persistent feature is a multiplier indicia that appears when there is a triggering symbol (column 5, lines 66-67; column 6, lines 1-8). Furthermore said bonus persistent features are available within the game at their persistent location through two or more sequential rounds of a game (Abstract). It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game. The combination of Hughs-Baird and Barrie fails to specifically disclose activating the selected modifier for at least one of the subsequent plays of the primary wagering game. However, within the invention of Barrie one could achieve a bonus modifier for subsequent game plays, and then out of choice decide to leave the machine do to a number of reasons including lack of achieving slot machine success, and another play could easily sit down and

resume the game without any resetting of the game, thus the bonus modifier being available to subsequent players of the primary game.

Re claim 21 Hughs-Baird discloses the gaming device of claim 20, wherein a plurality of said symbols are modifier activator symbols (column 11, lines 10-12).

Re claim 22: Hughs-Baird discloses the gaming device of claim 20, wherein the processor is operable to select one of the plurality of modifiers if a plurality of modifier activator symbols are displayed (column 3, lines, 61-67; column 4, lines 1-7).

Re claim 23: Hughes-Baird discloses the instructions including a plurality of instructions executable (column 7, lines 14-33) to cause the at least one processor to select more than one modifier (column 9, lines 9-65).

Re claim 24: Hughes-Baird discloses that a plurality of selected modifiers but fails to disclose that the modifiers affect a plurality of functions. However, Randall discloses a selected modifier that is associated with the amount of subsequent spins of the gaming machine, and also the payout of the gaming machine (Fig. 7; column 14, lines 49-61).

Because it is previously disclosed in Randall, one skilled in the art could simply program the modifiers of Hughes-Baird with the ability to change the amount of subsequent plays as well as affect the payout at the same time. It would have been obvious to one skilled in the art to modify the game of Hughs-Baird and Barrie in combination, with the

modifier and subsequent games of Randall, for the purpose of providing increasing opportunities to obtain awards and increase the size of the awards which are desirable by players.

Re claim 26: Hughs-Baird discloses that the modifier is activated when a modifier symbol is displayed and no other modifier symbol is activated (column 11, lines 10-19).

Re claim 27: Hughs-Baird discloses a modifier generator area displayed to the player that includes said plurality of modifiers (column 7, lines 34-40).

Re claim 28: Hughs-Baird discloses the instructions including a plurality of instructions executable to cause the at least one processor to operable to (column 7, lines 14-33) the modifier generator to select one of the plurality of modifiers (column 3, lines, 61-67; column 4, lines 1-7).

Re claim 29: Hughs-Baird discloses the instructions including a plurality of instructions executable to cause the at least one processor to operable to (column 7, lines 14-33) select one of the plurality of modifiers if said modifier activator symbol is displayed, but does not disclose that the event occurs when no modifiers are selected. However, because Hughs-Baird discloses the structural limitations of the instant application, any procedural modification to the prior art is a design choice by the inventor, and it would have been obvious to modify the invention of Hughs-Baird for adding an added game

element to the device that would increase game excitement.

Re claim 30. Hughs-Baird discloses that modifier is activated if said modifier activator symbol is displayed (column 11, lines 11-19).

Re claim 31: Hughs-Baird discloses the modifier generator selects at least one modifier for each play of the primary wagering game, wherein the processor automatically selects the modifier that is associated with the triggering wheel comprising of a die symbol. (column 3, lines, 61-67; column 4, lines 1-7).

Re claim 32: Hughs-Baird discloses the instructions including a plurality of instructions executable to cause the at least one processor to operable to (column 7, lines 14-33) wherein said selected modifier is activated if said modifier activator symbol is displayed (column 11, lines 1-19). however Hughs-Baird fails to disclose that the at least one modifier generator spins when at least one modifier is not displayed. The examiner believes that because Hughs-Baird discloses the necessary parts to complete said function, as well as disclosing a game machine function that is the complete opposite of claimed function of the Applicant's claim 32, it would have been obvious to one skilled in the art to try to spin the modifier generator if the modifier is not displayed, so as to affect the game outcome by italicizing the modifier generator.

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Re claim 35: Hughs-Baird fails to disclose that a plurality of modifiers is associated with the same number of subsequent games. However, Barrie discloses that a multiplier is present for a given number of subsequent games (Abstract) and because Barrie fails to disclose that each multiplier is operable for a specific number of games, it is reasonable for one to assume that all of the multipliers are operated for the same number of subsequent games, and is obvious to one skilled in the art as it is a simple matter of design choice. Furthermore, it would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 36: Hughs-Baird discloses that a plurality of said modifiers are each associated with a game occurrence, however Hughs-Baird fails to disclose that it is related different pluralities of subsequent plays of the primary wagering game. Therefore attention must be directed towards Randall, which discloses that a particular modifier is associated with a particular number of subsequent spins (Fig. 7). It would have been obvious to one skilled in the art to modify the game of Hughs-Baird and Barrie in combination, with the modifier and subsequent games of Randall, for the purpose of providing increasing opportunities to obtain awards and increase the size of the awards which are desirable by players.

Re claim 37: Hughs-Baird discloses a gaming system (Abstract) comprising:

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At least one display device (column 6, lines 57-65);

At least one input device (column 7, lines 46-58);

At least one processor (column 2, lines 44-47); and

At least one memory device which stores a plurality of instructions (column 7, lines 14-33), which when executed by the at least one processor, cause the at least one processor to operate with the at least one display device and the at least one input (column 7, lines 27-33; 52-53) device to

a.) receive an input based on a wager (column 6, lines 42-49);

b.) operate a first play of a primary game, the primary game having a plurality of reels, the reels having a plurality of symbols, the symbols having at least one modifier symbol (column 6, lines 25-30; column 8, lines 33-41);

c.) generate a plurality of the symbols (column 8, lines 33-41);

d.) activate a modifier generator in response to the modifier symbol being generated, the modifier generator having a plurality of modifiers (column 11, lines 10-19);

e.) generate at least one of the modifiers based on the activation of the modifier generator (column 11, lines 10-19);

h.) provide any award based, at least in part, on the generated modifier (column 3, lines 39-44). Hughs-Baird fails to disclose the particular steps of operating a second play of the primary game and modifying at least one function of the second play based on the generated modifier. However, Barrie discloses the operation of a second play of the primary game after a bonus modifier has been determined wherein the bonus modifier affects the payout function of the game (column 5, lines 66-67; column 6, lines 1-8). It

would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 47: Hughs Baird discloses a method of operating a gaming device (Abstract), and method comprising:

Enabling a player to play a primary wagering game, wherein said primary game includes at least one modifier activator (column 11, lines 10-19);

a.) displaying a plurality of reels, wherein each of said reels includes a plurality of symbols including, a modifier activator symbol;

b.) activating said plurality of reels (column 7, lines 1-8; column 8, lines 14-20);

c.) providing a player any award based on the symbols displayed on the reels after said activation (column 8, lines 21-24);

d.) selecting at least one of a plurality of different modifiers after modifier activator symbol is displayed on said reels, (column 11, lines 10-19),

f.) providing the player any award based on, at least in part, the selected modifier (Abstract; column 3, lines 39-44).

Furthermore the function of the reels that is modified based on the selected modifier is the payout function of the reels. Hughs-Baird fails to disclose that each of said modifiers is associated with a quantity of subsequent activations of the reels, the quantity being at least one, and at least the quantity of times, wherein at least one function of the reels is

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modified based on the selected modifier. Therefore, attention must be directed towards Barrie which discloses a bonus persistent feature wherein the bonus persistent feature is a multiplier indicia that appears when there is a triggering symbol (column 5, lines 66-67; column 6, lines 1-8). Furthermore said bonus persistent features are available within the game at their persistent location through two or more sequential rounds of a game (Abstract). It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 48: Hughs-Baird fails to disclose that at least one of the plurality of modifiers is selected if the player obtains at least one modifier activator in one of the subsequent plays of the primary wagering game (Abstract). However, because Hughs-Baird discloses that a modifier is activated at anytime there is a modifier activator symbol present, it would have been obvious to one skilled in the art that the presence of the modifier activator symbol in any previous or future gaming actions would activate a modifier.

Re claim 51: Hughs-Baird fails to disclose that a plurality of modifiers is associated with the same number of subsequent games. However, Barrie discloses that a multiplier is present for a given number of subsequent games (Abstract) and because Barrie fails to disclose that each multiplier is operable for a specific number of games, it is reasonable

for one to assume that all of the multipliers are operated for the same number of subsequent games, and is obvious to one skilled in the art as it is a simple matter of design choice. Furthermore, it would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 52: Hughs-Baird discloses that multiple modifiers are associated with a game event however, Hughs-Baird does not disclose that the modifiers are associated with a different plurality of subsequent plays of the primary wagering game. Therefore attention must be directed towards Russell which discloses that particular modifiers are each associated with a particular amount of subsequent games (Fig.7, column 14, lines 49-61). It would have been obvious to one skilled in the art to modify the game of Hughs-Baird and Barrie in combination, with the modifier and subsequent games of Randall, for the purpose of providing increasing opportunities to obtain awards and increase the size of the awards which are desirable by players.

Re claim 53 and 54 Hughes-Baird discloses method of claim 47, which is provided to the player through a data network wherein the data network is an internet (column 8, lines 3-11).

2. Claims 34, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs-Baird in view of Barrie in further view of Baerlocher (U.S. Patent 6,692,355).

Re claim 34: Hughs-Baird fails to disclose that the processor is operable to enable the player to select at least one of the modifiers. However, Baerlocher allows players to select new modifiers when they are not satisfied with the value of the modifier (column 9, lines 54-67). It would have been obvious to one skilled in the bonus modifier of Baerlocher with the bonus modifier of Hughs-Baird for the purpose of allowing increased interaction for players.

Re claim 50. Hughs-Baird fails to disclose the limitations of claim 50. However, Baerlocher discloses allowing the player to select a new multiplier when the player wants a modifier with a higher value (column 9, lines 54-67).

3. Claims 14, 15 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs-Baird in view of Glavich et al (U.S. Patent No. 6,634,945).

Re claim 14: Hughs-Baird fail to disclose that the modifier generator includes a modifier reel. Therefore attention must be directed towards Glavich et al. which discloses the use of modifier reels (column 8, lines 25-39). It would have been obvious to one skilled in

the art to utilize a wheel as disclosed by Glavich et al. for the purpose of displaying modifiers.

Re claim 15: Hughs-Baird fails to disclose that the processor is operable to enable the player to select at least one of the modifiers. Glavich discloses that the player selects which activator wheels to activate (column 13, lines 15-20)

Re claim 33: Hughs-Baird fail to disclose that the modifier generator includes a modifier reel. Therefore attention must be directed towards Glavich et al. which discloses the use of modifier reels (column 8, lines 25-39). It would have been obvious to one skilled in the art to utilize a wheel as disclosed by Glavich et al. for the purpose of displaying modifiers.

1. Claims 5, 6, 24, 25, 38, 39, 40, 42, 43, 44, 45, 46, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs-Baird in view of Barrie in further view of Randall et al. (U.S. Patent 7,235,011, which is a Continuation in Part of Application 10/237207 which discloses the same referenced material as well as different invention).

Re claim 5: Hughs-Baird fails discloses that a plurality of functions are selected by the processor (column 9, lines 11-16). However, Hughs-Baird fails to disclose that the modifiers affect a plurality of functions within the game. Therefore attention must be

directed towards Randall which states that a given modifier contains both the function of multiplying the payout as well as affecting the amount of subsequent games (Fig.7). In light of Hughs-Baird discloses that when a plurality of modifiers are selected, the modifier characteristics are added together to uniformly affect the primary game, one skilled in the art could easily replace the modifiers of Hughs-Baird, and then subsequently add the totals of the modifiers to uniformly modify the payout multiplier and amount of subsequent games. It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the modifiers of Randall, for the purpose of adding greater rewards for playing a primary game, which is desirable by players.

Re claims 6, 25, and 49: Hughs-Baird fails to disclose an active modifier counter, however Randall et al. discloses a counter containing the amount of free spins for which the particular multiplier is applicable (column 13, lines 3-23). It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the multiplier spin counter of Randall et al. for the purpose of increasing the opportunity for a player to increase the size of the awards.

Re claim 24: Hughs-Baird fails discloses that a plurality of functions are selected by the processor (column 9, lines 11-16). However, Hughs-Baird fails to disclose that the modifiers affect a plurality of functions within the game. Therefore attention must be directed towards Randall which states that a given modifier contains both the function of multiplying the payout as well as affecting the amount of subsequent games (Fig.7). In

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light of Hughs-Baird discloses that when a plurality of modifiers are selected, the modifier characteristics are added together to uniformly affect the primary game, one skilled in the art could easily replace the modifiers of Hughs-Baird, and then subsequently add the totals of the modifiers to uniformly modify the payout multiplier and amount of subsequent games. It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the modifiers of Randall, for the purpose of adding greater rewards for playing a primary game, which is desirable by players.

Re claim 38: Hughs Baird discloses a method of operating a gaming device (Abstract), and method comprising:

- a.) displaying a plurality of reels, wherein each of said reels includes a plurality of symbols including, a modifier activator symbol;
- b.) activating said plurality of reels (column 7, lines 1-8; column 8, lines 14-20);
- c.) providing a player any award based on the symbols displayed on the reels after said activation (column 8, lines 21-24);
- d.) selecting at least one of a plurality of different modifiers after modifier activator symbol is displayed on said reels, (column 11, lines 10-19),
- e.) repeating steps (b) to (c) at least the quantity of times, wherein at least one function of the reels is modified based on the selected modifier wherein the steps are repeated as the player continues to play the gaming machine; and
- f.) providing the player any award based on, at least in part, the selected modifier (Abstract; column 3, lines 39-44).

Hughes-Baird fails to disclose that each of the said modifiers is associated with a quantity of subsequent activations of the reels, the quantity being at least one. However, Randall discloses modifiers which are disclosed with a distinct plurality of modifiers separate from other modifiers (Fig. 7). It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the multiplier spin counter of Randall et al. for the purpose of increasing the opportunity for a player to increase the size of the awards.

Re claim 39: Hughs-baird discloses a plurality of said symbols are modifier activator symbols (column 2, lines 34-44).

Re claim 40: Hughs-Baird fails to disclose the step of indicating any modifier that is currently activated and the plurality of remaining subsequent plays of the primary wagering game that the modifier will be activated. Therefore attention must be directed towards Randall, which discloses that a particular modifier is associated with a particular number of subsequent spins (Fig. 7). It would have been obvious to one skilled in the art to modify the game of Hughs-Baird and Barrie in combination, with the modifier and subsequent games of Randall, for the purpose of providing increasing opportunities to obtain awards and increase the size of the awards which are desirable by players.

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Re claim 42: Hughs-Baird fails to disclose that a plurality of modifiers is associated with the same number of subsequent games. However, Barrie discloses that a multiplier is present for a given number of subsequent games (Abstract) and because Barrie fails to disclose that each multiplier is operable for a specific number of games, it is reasonable for one to assume that all of the multipliers are operated for the same number of subsequent games, and is obvious to one skilled in the art as it is a simple matter of design choice. Furthermore, it would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 43: Hughs-Baird fails to disclose that a plurality of said modifiers are each associated with a different pluralities of subsequent activations of the reels. However, Randall discloses a selected modifier that is associated with the amount of subsequent spins of the gaming machine, and also the payout of the gaming machine (Fig. 7; column 14, lines 49-61). Because it is previously disclosed in Randall, one skilled in the art could simply program the modifiers of Hughes-Baird with the ability to change the amount of subsequent plays as well as affect the payout at the same time. It would have been obvious to one skilled in the art to modify the game of Hughs-Baird and Barrie in combination, with the modifier and subsequent games of Randall, for the purpose of providing increasing opportunities to obtain awards and increase the size of the awards which are desirable by players.

Re claim 44: Hughs-Baird discloses that more than one modifier can be activated by a die symbol (column 9, lines 11-17), but fails to disclose that the modifier is activated for at least one subsequent activation of the reels. Therefore, attention must be directed towards Barrie which discloses a bonus persistent feature wherein the bonus persistent feature is a multiplier indicia that appears when there is a triggering symbol (column 5, lines 66-67; column 6, lines 1-8). Furthermore said bonus persistent features are available within the game at their persistent location through two or more sequential rounds of a game (Abstract). It would have been obvious to one skilled in the art to modify the invention of Hughs-Baird with the persistent bonus multiplier of Barrie for the purpose of adding interest to the game which would encourage players to play multiple rounds of the game.

Re claim 45 and 46: Hughs-Baird discloses that the game is provided to the player through a data network wherein the data network is an internet (column 8, lines 3-11).

2. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs-Baird in further view of Barrie in further view of Randall et al in further view of Baerlocher.

Re claim 41: Hughs-Baird fails to disclose enabling the player to select at least one of said modifiers. However, Baerlocher discloses that the player is allowed to select a modifier when they are not satisfied with their current modifier (column 9, lines 54-67).

Response to Arguments

1. Applicant's arguments with respect to claims 1-56 have been considered but are moot in view of the new ground(s) of rejection. Within the Applicant's submitted arguments, the Applicant has significantly amended independent claims 1, 18, 20, and 37, wherein by amending the claim language, the prior art as previously stated does not meet the limitations of the newly amended claims thus requiring a new search. Upon conclusion of the search, the examiner has found Barrie which discloses that a modifier symbol is activated by a primary game wherein the modifier symbol is activated for a plurality of games (Abstract). Furthermore, Randall additionally discloses that a plurality of modifiers is associated with a plurality of primary game functions including additional spins and multipliers (Fig. 7). In combination with the prior art used in the original rejection, the instant application has been determined to be obvious in view of the prior art.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINALD A. RENWICK whose telephone number is (571)270-1913. The examiner can normally be reached on Monday-Friday, 7:30AM-5:00PM, Alt Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

7/9/2008
/R. A. R./
Examiner, Art Unit 3714